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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,460	11/21/2003	William A. Hood	2-5169-053	2582
803	7590	10/06/2006	EXAMINER	
STURM & FIX LLP 206 SIXTH AVENUE SUITE 1213 DES MOINES, IA 50309-4076			WILL, THOMAS B	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 10/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/719,460

Applicant(s)

HOOD ET AL.

Examiner

Meredith C. Petravick

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 14-17 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-13, 22-23 is/are allowed.
- 6) ☒ Claim(s) 18-20 is/are rejected.
- 7) ☐ Claim(s) 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,006,504 to Myers et al., cited by Applicant, in view of U.S. Patent No. 6,550,218 to McClure et al.

The Myers '504 patent discloses a round baler having two flat panels (22) and a netwrap inlet area configured to accept netwrap material wider than the length between the two flat panels. The baler comprises a front side defined by a roller (40). The portion of the roller between the belts (46) is in direct contact with the bale. The baler has a rear side defined by a belt roller (38) that has a length approximately equal to the length of the bale. The flat panels (22) define first and second sides of the bale. Arcuate wedge members (204) are attached to the flat panels and are concentric to the roller. The netwrap material (162) contacts the formed bale in a void created by the wedges (204). What the Myers '504 patent does not disclose is that the baler also has a drum roller devoid of belts in front of the belt rollers. The McClure '218 patent teaches that it is known in the art to provide a round baler with a drum roller (6) leading the belt rollers (40). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the baler of the Myers '504 patent with the drum roller taught by

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the McClure '218 patent, in order to provide greater support for the bale in the area of the crop intake.

Regarding claims 18-20: The Myers round baler wraps the round bales by disposing the wrapping material over the leading belt roller (i.e., the belt roller nearest the intake – see Fig. 4). Clearly, the Myers '504 patent does not disclose disposing the wrapping material between the drum roller and the belt roller, since, as stated above, the Myers '504 patent does not disclose a drum roller. But, as stated above, one of ordinary skill in the art would find it obvious to provide the Myers round baler with a drum roller as taught by the McClure '218 patent to provide greater support. One of ordinary skill in the art would recognize that the simplest way to combine the drum roller of McClure with the Myers round baler would be to move the belt roller structure rearward – without changing the wrapping arrangement, in which the net wrap is fed over the belt roller. In that case, when the McClure drum roller is combined with the Myers round baler, the net wrap material would be fed between the belt roller and the drum roller.

#### ***Allowable Subject Matter***

3. Claim 21 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
4. Claims 1-12 and 22-23 are allowed.

#### ***Response to Arguments***

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5. Applicants' arguments filed 7/13/2006 have been fully considered but they are not persuasive as to claim 18 and its dependent claims.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation to combine is found in the knowledge generally available to one of ordinary skill in the art since one of ordinary skill in the art at the time the invention was made would recognize that providing the baler of the Myers '504 patent with the drum roller taught by the McClure '218 patent would provide greater support for the bale in the area of the crop intake.

As to Applicant's arguments regarding claim 19-20, those claims are rejected above and it is the combination of the references that teach each and every limitation.

### ***Conclusion***

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after


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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meredith C. Petravick whose telephone number is 571-272-6995. The examiner can normally be reached on M-T 8:00 a.m.- 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Meredith C Petravick  
Primary Examiner  
Art Unit 3671

September 30, 2006